

House File 644 - Reprinted

HOUSE FILE 644
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 156)

(As Amended and Passed by the House March 22, 2023)

A BILL FOR

1 An Act relating to criminal law including defense subpoenas,
2 depositions, conditional guilty pleas, prosecution witnesses
3 who are minors, and juror qualifications, and including
4 effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

DEFENSE SUBPOENAS

Section 1. Section 815.9, subsection 1, unnumbered paragraph 1, Code 2023, is amended to read as follows:

For purposes of [this chapter](#), [chapters 13B, 229A, 232, 665, 812, 814, and 822](#), and ~~section~~ sections 811.1A and 821A.1, and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal actions.**

1. *a.* A criminal defendant or counsel acting on the defendant's behalf shall not issue any subpoena for documents or other evidence except upon application to the court. An application shall not be granted unless a defendant proves by a preponderance of the evidence any of the following:

(1) The evidence sought is relevant or will lead to the discovery of relevant information.

(2) The evidence sought does not include private information of a crime victim or any other person unless the evidence is exculpatory.

b. For the purposes of this subsection:

(1) "*Exculpatory*" means information that tends to negate the guilt of the defendant, and not information that is merely impeaching or is substantially cumulative in nature.

(2) "*Private information*" means information for which a person has a reasonable expectation of privacy including but not limited to information the state would need a search warrant to obtain, nonpublic electronic communications, and information that would reveal personal information immaterial to the prosecution.

2. Notwithstanding any rule of criminal procedure concerning the issuance of a subpoena, this section is the exclusive mechanism for a criminal defendant or counsel acting on the defendant's behalf to issue a subpoena for documents or

1 other evidence.

2 3. An application for a defense subpoena shall not be filed
3 or reviewed ex parte.

4 4. The prosecuting attorney shall not be required to execute
5 or effectuate any order or subpoena issued pursuant to this
6 section.

7 5. A crime victim or other party who is the subject of
8 a subpoena shall not be required by the court to execute a
9 waiver.

10 6. Upon application by a crime victim or the prosecuting
11 attorney, the court shall appoint an attorney to represent a
12 person or entity served with a defense subpoena if the person
13 or entity is determined to be indigent pursuant to section
14 815.9. Counsel appointed pursuant to this subsection shall be
15 paid from the indigent defense fund established pursuant to
16 section 815.11.

17 7. Documents or other evidence obtained through a defense
18 subpoena must be provided to the prosecuting attorney within
19 three days after receipt of the documents or other evidence.

20 8. Documents or other evidence obtained through a defense
21 subpoena that does not comply with this section shall not be
22 admissible in any criminal action if offered by the defendant.

23 9. The court may sanction an attorney for knowingly issuing
24 a defense subpoena in violation of this section.

25 10. An applicant for postconviction relief shall not be
26 entitled to relief on a claim of ineffective assistance of
27 counsel as a result of evidence obtained through a defense
28 subpoena.

29 DIVISION II

30 DEPOSITIONS

31 Sec. 3. NEW SECTION. 701.13 **Depositions before indictment.**

32 A person expecting to be made a party to a criminal
33 prosecution shall not be entitled to conduct a deposition in
34 the criminal proceeding prior to the person being indicted for
35 a criminal offense.

1 DIVISION III

2 CONDITIONAL GUILTY PLEAS

3 Sec. 4. Section 814.6, Code 2023, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 3. A conditional guilty plea that reserves
6 an issue for appeal shall only be entered by the court with
7 the consent of the prosecuting attorney and the defendant
8 or the defendant's counsel. An appellate court shall have
9 jurisdiction over only conditional guilty pleas that comply
10 with this section and when the appellate adjudication of the
11 reserved issue is in the interest of justice.

12 DIVISION IV

13 PROSECUTION WITNESSES — MINORS

14 Sec. 5. Section 915.36A, Code 2023, is amended to read as
15 follows:

16 **915.36A Minor prosecuting witness — pretrial contact.**

17 1. A prosecuting witness who is a minor shall have the
18 right to have the interview or deposition taken outside of the
19 presence of the defendant. The interview or deposition may
20 be televised by closed-circuit equipment to a room where the
21 defendant can view the interview or deposition or in a manner
22 that ensures that the defendant shall not have contact with
23 the minor. The defendant shall be allowed to communicate with
24 the defendant's counsel in the room where the minor is being
25 interviewed or deposed by an appropriate electronic method.

26 2. The supreme court shall amend the rules of criminal
27 procedure to comply with this section including but not
28 limited to the elimination of a requirement that a defendant be
29 physically present at the deposition of a minor.

30 DIVISION V

31 JUROR QUALIFICATIONS

32 Sec. 6. Section 48A.30, subsection 1, paragraph f, Code
33 2023, is amended to read as follows:

34 *f.* The registered voter is not a resident of Iowa, or the
35 registered voter submits documentation under section 607A.4,

1 subsection ~~3~~ 5, that indicates that the voter is not a citizen
2 of the United States.

3 Sec. 7. Section 607A.4, Code 2023, is amended to read as
4 follows:

5 **607A.4 Jury service — minimum qualifications —**
6 **disqualification — documentation.**

7 1. To serve or to be considered for jury service, a person
8 must possess the following minimum qualifications:

9 a. Be eighteen years of age or older.

10 b. Be a citizen of the United States.

11 c. Be able to understand the English language in a written,
12 spoken, or manually signed mode.

13 d. Be able to receive and evaluate information such that the
14 person is capable of rendering satisfactory ~~juror~~ jury service.

15 2. ~~However, a~~ A person possessing the minimum
16 qualifications for service or consideration for service may be
17 disqualified for service or consideration for service if the
18 person has, directly or indirectly, requested to be placed on
19 a list for ~~juror~~ jury service.

20 3. A person convicted of a felony who remains under the
21 supervision of the department of corrections, a judicial
22 district department of correctional services, or the board of
23 parole shall be disqualified from jury service.

24 4. A person convicted of a felony who is currently
25 registered as a sex offender under chapter 692A or who is
26 required to serve a special sentence under chapter 903B shall
27 be disqualified from jury service.

28 ~~3.~~ 5. A person who claims disqualification for any of
29 the grounds identified in this section may, upon the person's
30 own volition, or shall, upon the court's volition, submit
31 in writing to the court's satisfaction, documentation that
32 verifies disqualification from ~~juror~~ jury service.

33 DIVISION VI

34 SUPREME COURT — RULES OF CRIMINAL PROCEDURE REVISIONS

35 Sec. 8. SUPREME COURT — RULES OF CRIMINAL PROCEDURE

1 REVISIONS. The supreme court shall revise the rules of
2 criminal procedure submitted for legislative council review
3 on October 14, 2022, to comply with this Act. The revised
4 rules of criminal procedure shall be submitted for legislative
5 council review no later than June 1, 2023, and shall supercede
6 the revised rules submitted on October 14, 2022. If the
7 supreme court fails to timely submit rules of criminal
8 procedure revised to comply with this Act, the rules of
9 criminal procedure submitted for legislative council review on
10 October 14, 2022, shall be rejected in their entirety.

11 Sec. 9. EFFECTIVE DATE. This division of this Act, being
12 deemed of immediate importance, takes effect upon enactment.